

The 31st July, 1973

No. 7729-4Lab-73/27448.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana Rohtak in respect of the dispute between the workmen and management of M/s Kaithal Store, Karnal.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 31 of 1973

between

SHRI CHATTAR SINGH AND THE MANAGEMENT OF M/S KAITHAL TIMBER STORE, KARNAL

Present,—

Shri Mukand Lal, for the workman.

Shri Vinod Kumar, Jain for the management.

AWARD

The following dispute between the management of M/s Kaithal Timber Store, Karnal and its workman Shri Chattar Singh was referred for adjudication to this court for adjudication,—vide order No. ID/KNL/182-A-73/13546-50, dated 12th April, 1973 of the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of section 20 of the Industrial Disputes Act, 1947.

"Whether the termination of services of Shri Chattar Singh was justified and in order? If not, to what relief is he entitled?"

Usual notices were given to the parties. An amicable settlement has been arrived at. Their statements have been recorded, Shri Chattar Singh concerned workman has since started his own tea stall he has cleared his account with the management and received payment of Rs 425 in full and final settlement of his entire claims, giving up the right of reinstatement or re-employment. There is now no dispute left between the parties. The award is made accordingly. No order as to costs.

Dated the 16th July, 1973.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 51704, dated 23rd July, 1973.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 7634-4Lab-73/27452.—In pursuance of the provisions of section 17 of the Industrial Disputes Act 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana Rohtak in respect of the dispute between the workmen and management of M/s The Karnal-Delhi Cooperative Transport Society Ltd., Karnal.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 141 of 1970

Between

SHRI GOBIND LAL AND THE MANAGEMENT OF M/S THE KARNAL-DELHI COOPERATIVE TRANSPORT SOCIETY LTD., KARNAL

Present :

Shri Harbans Lal for the workmen.

Shri M. L. Saini for the management.

AWARD

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Shri Gobind Lal was in the service of M/s The Karnal Delhi Cooperative Transport Society Ltd., Karnal as a Conductor. The management dismissed him from service with effect from 1st December, 1969 allegedly on the ground of wilful absence from duty without proper authorisation. He disputed this charge and raised a demand for reinstatement and back wages but without success. This gave rise to the industrial dispute.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 referred the above dispute to this court for adjudication,—vide order No. ID/KL/61-A/25604-8, dated 25th August, 1970 with the following terms of reference.

“Whether the dismissal of Shri Gobind Lal Conductor was justified and in order? If not, to what relief is he entitled?”

Usual notices were given to the parties and they put in their respective written statements. Briefly put the case for the management is that this workman had remained absent from duty from 3rd July, 1969 till 26th July, 1969 and did not report for duty even after that date inspite of the notice in writing given to him for this purpose. He was, therefore, given a charge-sheet on 19th August, 1969 and after considering his explanation to the charge-sheet which was found to be un-satisfactory an enquiry was held against him. The Enquiry Officer found him guilty of the charge and taking into consideration his findings, the workman was dismissed from service.

Shri Govind Lal workman, on the other hand, has contended that he had proceeded on leave from 3rd July, 1969 to 17th July, 1969 which had been duly sanctioned and when he reported for duty on 17th July, 1969 and booked the buses on that day, he was directed to see the Senior Vice-President of the Society at Karnal on the following day who however, refused to assign him any duty on a false charge that he had remained absent without leave. It has further been urged that he had addressed letters to the General Manager and the Senior Vice-President of the Society complaining against the wrongful refusal of the work to him but without any satisfactory response. The validity of the charge-sheet and enquiry stated to have been conducted against him has also been questioned.

From the pleadings of the parties the only issue that arose for determination in the case is as per the term of reference stated above.

The management has brought on record the enquiry proceedings and documents relating thereto. Some other correspondence exchanged between the parties has also been produced. The witnesses examined by the management in the case include M.W. 1 Shri Inder Singh, Dealing Clerk and M.W. 2 Shri M.L. Saini, Enquiry Officer.

The workman has examined W.W. 1 Shri Sujan Singh, Accountant of the Society and made his own statement as M.W. 2.

The case has been argued on both sides and I have carefully gone through the facts on record. The statement of the witnesses examined on both sides and the various documents upon which reliance has been placed by the parties.

As would be clear from the facts stated above, the charge against the present workman was that he was guilty of indiscipline in the discharge of his duty and that he had remained absent from duty from 3rd July, 1969 to 26th July, 1969 and had not reported for duty inspite of the letter dated 26th July, 1969 written to him by the management in this behalf. This charge was denied by the workman but had been established in the enquiry conducted against him by Shri M. L. Saini. The charge-sheet had been duly served upon him and his explanation had also been considered by the management but found to be unsatisfactory. He had actually appeared before the Enquiry Officer, but later on withdrawn himself from the enquiry for reasons better known to him. Nothing substantial has been brought on record to prove that the Enquiry Officer had any bias or prejudice against him or that he had violated any principle of natural justice in conducting the enquiry, which in the circumstances, can not be held to be vitiated.

As already pointed out the only charge against the workman was that he had remained absent from duty without proper authorisation. He was not charged with any other misconduct and there was the statement of the dealing clerk to establish the said charge on the basis of documentary evidence. The plea of the workman is that as a matter of fact his leave from 3rd July, 1969 to 17th July, 1969 had been duly sanctioned and he had reported for duty on the expiry of the leave and actually worked on 17th July, 1969, has not been substantiated by any satisfactory evidence, documentary or oral. No leave application has been proved nor the sanction of the said leave by any competent authority. If the leave applied for by this workman had really been sanctioned and he had actually reported for duty on the expiry of the leave, it is not believable that the management would treat him as absent from duty without any reasonable ground. At least no facts have been brought on record from which such expense could reasonably be drawn.

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It would thus appear that the workman has failed to substantiate his allegation that the management had refused to assign him duty. The fact remains that he had absented himself from duty for the period mentioned above without any proper authorisation and had further failed to report for duty in spite of the notice in writing given to him by the management and that being so the management was perfectly justified in dismissing him from service taking into consideration the findings of the Enquiry Officer. In the circumstances, he is not entitled to any relief in the present reference.

There is another aspect of the case which deserves consideration here. The respondent Society has since closed its business as a result of the complete nationalisation of the road transport by the State, the question of reinstatement of this workman does not arise. He has led no evidence to show that he has not been gainfully employed anywhere during the intervening period. His own statement is silent on this point. He cannot, therefore, be entitled to any back wages or compensation in lieu thereof.

For the reasons aforesaid, the issue involved in the case is decided against the workman and it is held that he is not entitled to any relief by way of reinstatement and payment of back wages. The award is made accordingly. There shall be no order as to costs.

Dated 19th July, 1973.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1705, dated 23rd July, 1973

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 7631-4Lab-873/27455.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and management of M/s The Karnal Haryana Co-operative Marketing Processing Limited, Karnal.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 5 of 1973

Between

SHRI GANGA DHAR BHATIA AND THE MANAGEMENT OF M/S THE KARNAL HARYANA
CO-OPERATIVE MARKETING PROCESSING LIMITED, KARNAL

Present.—Shri Harbans Lal, for the workman.
Nemo, for the management.

AWARD

The facts material for the disposal of this reference may shortly be stated as under.—

Shri Ganga Dhar Bhatia concerned workman had joined service with M/s The Karnal Haryana Co-operative Marketing Processing Ltd., Karnal, on 1st January, 1968, as an Accountant at Rs 210 per mensem. The management terminated his services with effect from 30th December, 1970, allegedly without any notice or charge sheet. He raised a demand for reinstatement but without any response from the management. This gave rise to an industrial dispute. The matter was taken up for conciliation, but the management did not show any willingness to take him back on duty. On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, referred the above dispute for adjudication to this court,—vide order No. ID/KNL/154-A-73/10078, dated 12th March, 1973, with the following term of reference.

“Whether the termination of services of Shri Ganga Dhar Bhatia was justified and in order? If not, to what relief is he entitled?”

Usual notices were given to the parties to put in their respective written statements. The management requested for an adjournment which was granted subject to payment of costs and the case was fixed for 23rd June, 1973, and then adjourned to 10th July, 1973, at Panipat. Costs were not paid and Shri R. L. Gupta who represented the management stated that he had no instructions from the management to appear and contest the case of the workman. Evidence of the workman has, therefore, been recorded *ex parte* against the management.

The workman has made his own statement as W.W. 1 and Shri Harbans Lal, General Secretary, Karnal General Transport Workers Union Registered, Karnal, has come into the witness box as W.W. 2. From their statements read together it is clear that the services of the present workman had been terminated by the workman without any notice or charge-sheet after he had put in service as an Accountant for 3 years. He had approached the management for reinstatement but without success. Then the demand notice in writing was given and conciliation proceedings were initiated. The management did not show any willingness to take him back on duty and hence the reference. The workman has further stated that during this period of forced unemployment he has not been gainfully employed anywhere in spite of his best efforts. He has mentioned some other concerns at Karnal where he had tried in vain to get some alternative job. I do not see any reason to disbelieve the statement of the workman which finds further support in the testimony of Shri Harbans Lal, General Secretary, who had also approached the management to take this workman back on duty but without success especially when the management has not cared to file any written statement and take part in the present proceedings to contest the claim of the workman in spite of services.

In view of the above, the impugned order of the termination of the services of Shri Ganga Dhar Bhatia concerned workman can not be held to be justified and in order and in the result he is entitled to reinstatement with full back wages. The award is made accordingly. He is also entitled to Rs 50 as costs of the present proceedings.

O. P. SHARMA,
Presiding Officer
Labour Court, Haryana,
Rohtak.

Dated 16th July, 1973.

No. 1708, dated 23rd July, 1973

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 7629 4Lab-73/27457.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and management of M's Popular Rubber Mills, Rasoi (Sonapat).

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 240 of 1972

Between

SHRI JAI KISHAN AND THE MANAGEMENT OF M'S POPULAR RUBBER MILLS,
RASOI (SONEPAT)

Present.—

Shri M. S. Rathi, for the workman.

Nemo, for the management

AWARD

The following disputes between the management of M/s Popular Rubber Mills, Rasoi (Sonapat), and its workman Shri Jai Kishan was referred for adjudication to this court by the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947,—vide order No. ID/RK 117-A-72/41898-2, dated 1st December, 1972.

“Whether the termination of services of Shri Jai Kishan was justified and in order? If not, to what relief is he entitled?”

Usual notices were given to the parties. An amicable settlement has been arrived at as stated by Shri M. S. Rathy authorised representative of Shri Jai Kishan concerned workman who has accepted job in some other factory and has given up his entire claims against the present management including the right of reinstatement or re-employment in lieu of Rs. 800/- deposited by the management in the office of the Labour Officer, Sonapat. A copy of the memorandum of settlement dated 25th May, 1973 has also been filled,

In view of the above, no further proceedings are called for in the case and the award is made in terms of the said settlement. Shri Jai Kishan workman concerned is entitled to receive payment of Rs. 800/- deposited by the management with the Labour Officer, Sonapat in full and final settlement of his entire claims against the management without any right of reinstatement or re-employment. No order as to costs.

Dated the 18th July, 1973.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 1710 dated 23rd July, 1973.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 7633-4Lab-73/27463.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workman and the management of M/s Good Earth Engines (P) Ltd., Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 132 of 1972

between

SHRI RADHEY SHAM AND THE MANAGEMENT OF M/S GOOD EARTH ENGINES (P) LTD., FARIDABAD.

Present:

Shri Darshan Singh, for the workman.

Shri R. C. Sharma, for the management

AWARD

Shri Radhey Sham was in the service of M/s. Good Earth Engines (P) Ltd., Faridabad. The management terminated his services with effect from 31st December, 1971. He raised a demand for reinstatement but without success. This gave rise to an industrial dispute.

The Governor of Haryana in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947 referred the above dispute for adjudication to this court,—vide order No. ID/FD/72/11389-93, dated 3rd April, 1972, with the following term of references.

Whether the termination of service of Shri Radhey Sham was justified and in order? If not, to what relief is he entitled?

Usual notices were given to the parties and they put in their respective written statements. The issue that arose for decision was precisely the same as per the term of reference stated above.

It is however, not necessary to go into the merits of the case as an amicable statement has been arrived at between the parties as per the memorandum of settlement, dated 23rd May, 1973 Exhibit M. 1 and the workman concerned has received his dues in full and final settlement of his claims against the management giving up his right of reinstatement or re-employment. Statements have been recorded. There is now no dispute left between the parties.

In view of the above, a no dispute award is made. There shall be no order as to costs.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

Dated the 19th July, 1973.

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No. 1706, dated 23rd July, 1973.

Forwarded (four copies) to the Secretary to Government of Haryana. Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 7630-4 Lab-73/27465.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workman and management of M/s Haryana Roadways, Gurgaon.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 131 of 1971

between

Shri Lachhman Singh and the management of Haryana Roadways, Gurgaon.

Present:

Shri C.B. Kaushik, for the applicant.

Shri K. L. Piplani, for the management.

AWARD

The facts material for the disposal of this case under clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947 may be stated as under :—

Shri Lachhman Singh, workman concerned was in the service of Haryana Roadways, Gurgaon as a Conductor. The management terminated his services with effect from 8th August, 1970 *vide* order No. 943/RA, dated 10th August, 1970. Feeling aggrieved he raised a demand for reinstatement and full back wages contending that the impugned order of the termination of his services was illegal. There was no satisfactory response from the management. This gave rise to an industrial dispute. The matter was taken up for conciliation but without success.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana referred the above dispute for adjudication to this Court *vide* order No. ID/GG/91-B-71/23090-94, dated 27th July, 1972, with the following term of reference :—

“Whether the termination of services of Shri Lachhman Singh was justified and in order ? If not, to what relief is he entitled ?”

Usual notices were given to the parties. The workman filed a detailed statement of claim contending that his appointment as Conductor had been made against a permanent vacancy on the basis of his selection by the Subordinate Services Selection Board and he had been discharging his duties satisfactorily till 10th August, 1970 when his services were terminated by the management with effect from a back date i.e. 8th August, 1970 without showing any reason or justification. It was further urged that after the termination of his services the management had made fresh recruitment in total dis-regard of his rights. It was further urged that the person who had terminated his services was not competent to do so.

The management contested the claim of Shri Lachhman Singh concerned workman mainly on the ground that his appointment with effect from 11th April, 1970 was purely on temporary basis and it was not necessary to assign any reason for the termination of his services especially when he had worked for less than 240 days. The impugned order, it was contended was made in routine and did not suffer from any malafide on the part of the management.

From the above pleadings of the parties, the only issue that arose for determination in the case was as per the term of reference as stated above.

The management has examined 3 witnesses including M.W. 1 Shri Moninder Nath Sharma, Establishment Assistant, Haryana Roadways, Gurgaon who has produced an attested copy of the appointment letter of the workman Exhibit M.W. 1/1. M.W. 2 Shri Dharam Chand, Assistant from the office of the State Transport

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 Controller, Haryana, Chandigarh who has proved attested copies of certain agreements between the management and the workers exhibits M.W. 2/1, M.W. 2/2, M.W. 3 Shri Ram Kumar Chief Inspector, Haryana Roadways, Gurgaon who has proved his report Exhibit M.W. 3/1. According to him 14 passengers in the bus of which Shri Lachhman Singh was the Conductor had been found without tickets although Shri Lachhman Singh had realised the fare from them.

The management has examined still another witness Shri S.N. Gambhir, Superintendent, State Transport Controller, Haryana, Chandigarh M.W. 4 who has deposed that report against this Conductor had been received from the Flying Squad but since he was only a temporary employee, it was not considered proper to dismiss him from service by way of punishment lest his future prospects be marred and only an order of termination simpliciter was issued.

Shri Lachhman Singh concerned workman has himself come into the witness-box and stated that his appointment was made,—vide order dated 11th April, 1970 copy Exhibit W.W. 1/1 and his services had been terminated with effect from 8th August, 1970,—vide order dated 10th August, 1970 copy Exhibit W.W. 1/2 without assigning any reason when he had actually worked till 9th August, 1970 and received his wages upto that date,—vide letter Exhibit W.W. 1/3. According to him no charge-sheet was ever given to him and the allegation now made on behalf of the management in the present reference that some passengers had been found travelling without tickets was never communicated to him earlier. He has further specifically denied the plea raised on behalf of the management that his services was of temporary nature. In cross-examination he has admitted that his bus had been checked by Shri Ram Kumar on 20th July, 1970 but the report made against him was wrong.

The case has been fully argued on both sides and I have given a careful consideration to the material on record. As would be clear from the perusal of the appointment letter, dated 11th April, 1970 of Shri Lachhman Singh workman concerned Exhibit W.W. 1/1 produced by him, his appointment as a conductor was purely on temporary basis and his services could be terminated at any time without any notice. His plea that he was a permanent employee and that he had been appointed in a permanent capacity from the very beginning is thus belied by his own document. No other document has been brought on record to indicate that he had ever been confirmed by the management as a conductor. He had actually put in service for about 4 months only. In the circumstances by no stretch of imagination could he be considered as a permanent employee entitled to benefits as such.

Admittedly no charge-sheet was given in respect of the alleged incident of 20th April, 1970 when 14 passengers were found travelling without tickets in his bus No. 1678 and no enquiry had, therefore, to be conducted in the matter. but as already stated, the management has not dismissed him from service by way of punishment on the said charge and had instead passed an order of termination of his services simpliciter without assigning any reason and without attaching any stigma regarding corruption or in-efficiency. According to M.W. 4 this course was adopted by the management in the interest of the workman himself lest his future career be spoiled. In terms of the contract of service,—vide letter dated 11th April, 1970 Exhibit W.W. 1/1 the management was fully competent to pass such an order, taking into consideration the very temporary nature of his service.

In view of this fact stated above, I do not find any thing wrong with the impugned order of termination of services simpliciter of the present workman who had held the post of the conductor for about 4 months purely in a temporary capacity. There is however, another suspect of the case which deserves consideration here. This conductor had actually worked till 9th August, 1970 and strongly enough his services were terminated with effect from 8th August, 1970 vide Exhibit W.W. 1/2 on record. The order could not legally be given effect to from a back date. But in the circumstances of the case stated above, this is not going to make any material difference because his wages upto 9th August, 1970 had admittedly been paid and the order of termination of his services would take effect from 10th August, 1970 when it was actually made.

So far the reasons given above, it can not be held that the impugned order of the termination of the services simpliciter and not on account of any mis-conduct on the part of the present workman passed by the management was not justified and in order and in the above view of the matter he is clearly not entitled to any relief by way of reinstatement or payment of back wages. The award is made accordingly. There shall be no order as to costs.

The 17th July, 1973.

O.P. SHARMA,

Presiding Officer,
 Labour Court, Haryana,
 Rohtak.

No. 1709, dated 23rd July, 1973

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
 Labour Court, Haryana,
 Rohtak.